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## THE CRITERION OF DISTRIBUTIVE JUSTICE.

THE problem of the relation of the moralist to the subject-matter of political economy has occasioned the shedding of much ink, and yet it is at bottom a comparatively simple one. In so far as the economist attempts to state the laws which, as a matter of fact, at any given time underlie the process of production and distribution, the intrusion of the moralist into his field is as impertinent as it would be for him to thrust himself into the councils of the geologist or the biologist. With the attempt to understand, judgments of approbation or reprobation have absolutely nothing to do. But political economy is something more than a science, it is also an art. In this capacity it aims to serve as a guide to legislation and perhaps even to private initiative in marking out the channels in which the stream of industry should flow; in other words, it sets before us ideals and attempts to point out the means by which these may be attained. Here the presence of the moralist is emphatically demanded, for these ideals and the means suggested for their attainment must submit to be measured by ethical standards on pain of forfeiting the allegiance of the best members of society; and that the untrained and unaided common conscience is incompetent for this complicated task will, we hope, be apparent before the conclusion of this paper. The contributions of ethics to economics will fall into two divisions; first, a general statement of the principal demands which morality makes upon all forms of human activity, and, second, a criticism from this point of view of such particular legislative and other innovations as the economist may from time to time propose.

Of all the ethical conceptions with which the economist is compelled to deal, none stand so imperatively in need of clearing up as does that everyday term justice. The present industrial system is constantly the object of bitter attacks because of the

alleged injustice involved in the extremes of wealth and poverty which it permits to exist, while it is defended by some with equal warmth of conviction as the very flower of that which is fair and just. Most of these discussions lead to no result simply because the disputants have never taken the trouble to clearly define, even in their own minds, the words they so glibly employ. If examined on this point common sense is quite certain it knows precisely what it is talking about. But the considerable number of mutually exclusive formulæ that have been proposed, the vagueness of a large proportion, and the palpable absurdity of some show that the conception is a complex one, whose real nature can be brought out only in a careful and extended analysis.

As a matter of fact it is no easy undertaking to even enumerate the phenomena to be included under the term justice. For generations this has been used so loosely that it has now become impossible to frame a comprehensive statement of the various forms of morality to which the name is actually applied. It may, however, be defined as such a distribution among two or more parties of things considered desirable or undesirable as would be sanctioned by the moral consciousness. "The things distributed" may be material or otherwise, money or its equivalents, honors, preferment or affection, or, on the other hand, pain, fines, etc. A number of objections will doubtless suggest themselves to this definition, many of which could easily be shown to be more apparent than real, but they do not require an elaborate discussion in this place, for the definition given is at all events sufficiently exact for the purposes of this paper. The far more important question is that with regard to the standard of distribution. Nothing better exhibits the vagueness of popular notions on this subject than the verbal jugglery with which common sense has here allowed itself to be imposed upon. A famous formula reads: "Justice is the firm and constant purpose to give every man his own." If this statement merely means to call attention to the fact that justice is concerned with distribution, it is well enough, but as a criterion it is worse than useless.

For "own" must mean either that which a man possesses or that which he ought to possess. In the first case the principle is outrageously false, in the second it merely supplies us with the valuable information that a person ought to be given what he ought to have.

Turning away from such emptiness we find two criteria in the field, each intelligible, each with the best claims for a careful hearing and consideration, each commanding the allegiance of many intelligent men. It will be the aim of this paper to present such data as may place the reader in a position to decide between them. The former is a special application of the criterion of morality which is accepted by the two leading schools of moralists in England and America today. According to this view the rightness or wrongness of every action is determined by the relation in which it stands to the well-being of those directly or indirectly affected by it. This principle, applied to the problem of distribution of property would stamp that industrial system as right which all things considered makes for the greatest amount of well-being. One member of this school may claim that this result is best attained on the whole by a system of *laissez faire*, notwithstanding the room it gives to the play of luck, of inheritance, of wealth created by others, etc.; a second, by an organization of society by which the return for labor expended is measured solely by the amount and excellence of the services rendered; still another, by a system in which rewards are apportioned directly according to needs. But all would agree that the problem in each case is the same, namely, to get such a ratio between quantity of production and equality of distribution as will best serve the economic interests of all concerned, while at the same time none of the higher elements of human life shall be sacrificed. Such a system these moralists would declare to be just, whatever particular form it might take.

The second of the criteria above referred to is one that never fails to commend itself to the popular imagination; it declares that reward should be proportioned to individual desert. According to this view, if not taken in a Pickwickian sense, as is

too often the case, we have nothing to do with the question whether a community will be richer in all the elements of well-being under a given régime or whether the most valuable fruits of civilization may be thus best preserved ; justice, we are told, has nothing to do with effects, therefore let desert be rewarded "though the heavens fall." As thus stated most persons would doubtless condemn this formula without hesitation as abject absurdity ; and if we could drop the subject here, there would be no need of farther argument. But many would claim that such conclusions involve carrying a good principle too far. We may, they would insist, apportion reward to desert up to a certain point, but as soon as we thereby begin to interfere very seriously with the welfare of society we may adopt a different standard. In this respect they follow exactly the example set them by the apostles of absolute liberty. But who does not see that either the general welfare or the principle of reward according to desert must be supreme, and if so that one or the other must be appealed to consistently whenever collision arises ? So that the common trick of shifting allegiance from one to the other of these two principles is as if a sick man should call in the homeopathic physician on the days when he thought himself convalescing and the allopathic whenever he felt that he was losing ground.

But it cannot be denied that such a line of reasoning usually produces little effect. Few persons know what it means to take an ethical ideal seriously and they accordingly feel as little compunction in changing their allegiance when occasion makes it convenient as did an Italian captain of the sixteenth century in serving now under the banner of Venice in its wars against Genoa and then enlisting in the army of Genoa in its campaigns against Venice. A man who believes that society is under supreme obligation to reward everyone according to desert should be prepared to push this through even if it reduced us all to a common level of bread and water and one shirt, or wrecked civilization itself. But his unwillingness to see his principle carried to this length will seldom prevent him from holding that it is a

sound rule of action up to some undetermined point where its consequences finally become black enough to frighten him; while if you talk of consistency the word is as one from an unknown tongue. We shall therefore attempt to establish the position that social well-being is in all cases the only criterion of justice, by showing that from its very nature desert cannot be made the measure of reward; and that, not because it would require the solution of problems that are difficult, but rather such as are in their very nature impossible even to formulate. We may assume with confidence that any conception of duty that requires of us that which is in its essence impossible is a mistaken one. If therefore we can prove our minor premise, we shall have no fear as to the conclusion.

In the proper sense of the term desert or merit is directly and indissolubly connected with the phenomenon of effort and that alone. There would be no such words if everywhere and always devotion to duty were alike easy, if we did not sometimes have to *fight* temptation, and if this conflict did not involve the putting forth of effort. With the concrete examples of this phenomenon all are sufficiently familiar. If a man with a hot temper controls himself under great provocation, we attribute to him much greater merit than to one who could not get angry if he tried. Similarly the credit attaching to a gift for a public charity or to a service rendered to a friend depends, other things being equal, in the first case upon the intensity of the individual's love for money, in the second upon his native indisposition to activity, his inertia as it were. This principle holds as truly in the industrial world as in any other department of human life. He who carries on a legitimate business is engaged in supplying the wants of his fellowmen. If such activity were mere fun instead of being on the whole a task, if strict devotion to duty did not make considerable demands upon our powers of self-control, if it did not frequently or usually involve a rising superior to the mere inclination of the moment, then, however useful it might be, we should never attribute credit to anyone in connection with it, it would involve no claim for reward on the

ground of desert. Or if desert were attributed to it this would be solely on the ground that during the time thus occupied we might have been engaged in serving ourselves instead of those to whom we are supposed to be personally indifferent. In a word we are considered to deserve well of others only in so far as the attempt to serve them has involved genuine sacrifice of inclination in some form or other. Any interpretation of the term less thoroughgoing than this the moralist must hold to be inadmissible.

Thoughtful advocates of the existing industrial system frequently attempt to vindicate its justice on the ground that it involves an exchange of equivalents, value for value, service for service, so that a man's share of the world's wealth is proportional to the amount he has contributed to its production. Denying the fact, many socialists have held up this same principle of reward according to service as the ideal to be striven for. But whatever may be said in favor of such a plan on the score of "expediency," our definition shows that it does not involve even remotely the apportionment of reward according to desert. The amount of social service which any person actually performs is determined only in part by the faithfulness with which he devotes himself to his business. Keen powers of observation, good judgment, insight, tact, a tenacious memory, the power of combining facts apparently remote, and even a sound digestion, good spirits, and excellent health, to say nothing of dispatch and native energy, determine very largely the amount of a man's contribution to the world's wealth. One brakeman out of a hundred thousand may rise to be the president of a railroad, but who does not know that his faithfulness to his humbler duties was but a small element in his success? The main point was that he had "brains." This would hold true in Utopia itself. The amount of service any man is capable of performing depends to a very large extent on gifts which nature implanted in him at birth, and how far the abilities he possesses at any given time are dependent upon that original endowment, and how far upon conscientious cultivation, no human being can ever know.

Is it possible, then, to conceive of a state of society where each might be rewarded according to the amount of effort put forth in the service of his fellows? If we could be absolutely certain that everyone would work up to the limits of his powers we might answer "Yes," for then we could introduce absolute equality of distribution. To be sure this innocent-looking term, equality, conceals a nest of difficulties, of which most people have never dreamed. But we can afford to neglect these and turn our attention to more fruitful matters. For, in the first place, all sane persons would agree that an order of society in which everyone worked till exhausted would be the very reverse of ideal, and yet, as will soon appear, short of that the existence of equality of effort can never be demonstrated. But, waiving this, as long as man remains an imperfect being, inequality of effort will always remain a fact to be reckoned with. The first problem will accordingly be the construction of a standard by which to measure the relative amount of such efforts. Now this, it is easy to show, is absolutely impossible. By such a statement we do not merely mean that it would involve difficulties in its practical application, for that is a defect common to all human ideals. Rather do we affirm that the standard in question is incapable of even an intelligible formulation. Time, of course, can be easily measured. But this is only one of three elements involved in determining the amount of genuine desert, the other two being intensity of application and natural indisposition to work. Everyone knows that of two carpenters of apparently equal ability one can accomplish twice or thrice as much in a day as the other, simply because he "works harder." If this is true of manual labor, how much more does it hold of the intellectual activity such as fills the working day of a railroad superintendent! The completeness with which attention is concentrated on his problem for a long period, the strain voluntarily submitted to in order to keep every faculty keyed up to the highest pitch, sometimes makes all the difference between good results and poor. Now this intensity of application there are absolutely no means of measuring. It cannot be estimated



by the actual amount accomplished, for then the factor of natural gifts disturbs our calculation in the manner already exhibited. Some can with the greatest ease solve problems which others with superhuman exertion could not even bring themselves to comprehend. On the other hand a subjective standard in the way of feeling is unthinkable. In the absence of anything to serve as a unit I can compare the intensity of application of one time with that of another only as I vaguely think of it as more or less. But whether it is twice or three times as great I myself could never tell; indeed it would be difficult to show that these terms have any meaning whatever. But if so, how much farther are we from being able to compare the amount of exertion which one man puts forth with that of another. Or, waiving this, how are we to equate exertion and time, so as to determine what must be the length of a period of time in which a certain number of units of exertion are put forth—whatever this may mean—in order to counterbalance another period with a greater number of effort units? And, finally, how shall we equate these factors with the intensity of the man's aversion to his particular task, or to steady work in general? Unless we can answer these questions the moralist is forced to maintain that the very notion of apportioning reward according to desert is an absurdity of the first class. The attribution of merit and demerit is undoubtedly a fact of human experience, but we can never know in even the remotest degree their relative amounts in any two individuals; and if not, then our instinctive impulse to create a system of society based on the apportionment in proportion to such amounts of reward (and penalty)—an impulse having its roots in gratitude and resentment—cannot be an integral portion of the moral ideal. Rewards, indeed, we may still bestow as a sign of approval or gratitude in those cases where the problem of quantity is a subordinate one; as where we make up a purse for a fisherman who has saved a child from drowning; rewards we may also bestow for reasons of expediency; but to anything beyond this nature itself has set up impassable barriers in the very constitution of the human mind.

These conclusions will appear to many persons so paradoxical that it may be worth while to enforce them by a brief reference to still more patent phenomena in a closely allied department of morals. The form of justice we have thus far been dealing with is called distributive. It assumes the existence of a given amount of wealth, and asks by what principles this shall be apportioned among the members of society. Our first impulse, as has been pointed out, is to give the reins into the hands of gratitude, and attempt to make reward commensurate with desert. But gratitude, and still more frequently its correlative resentment, may be called in to solve another problem, that of retribution. A crime has been committed, and it becomes necessary to determine the severity of the penalty. Common sense would again reply, let the punishment be proportioned to the desert. But here a difficulty at once arises over and above those which this conception has already been seen to involve. The degree of guilt is measured by the amount of effort that would have been requisite to overcome the temptation. Assuming for the moment that this amount could be determined and expressed in "units of effort"—a supposition which we have seen to be absurd—how determine the unit of punishment which shall be equivalent to a unit of demerit? Shall it be a day in the penitentiary at hard labor, or a week, or a month? If a man, under the stress of a given temptation, has stolen ten dollars from his employer's till and thereby contracted five "units of guilt" shall he be imprisoned five weeks or five months? No one can really answer, and the only principle which is capable of a consistent application in such cases is, by an exploration of the records of past experience to determine what penalties are most effective in preventing crime and what methods of punishment promise to do most for the reformation of the criminal. These are the principles adopted by modern penology, but they involve the application of the criterion of well-being and not of desert. Our conclusion with regard to the standard of distributive justice thus seems to be confirmed by a study of retributive justice. Our denial of the possibility of apportioning reward—as well as penalty—to

desert is seen to hold good for each. The position taken with regard to the former involves, therefore, nothing unique or exceptional, but is simply a special application of a general principle. If this view be correct, and if it be absurd to suppose that the demands of morality, properly interpreted, can ever require that which in its very nature is impossible, then we are compelled to maintain that the criterion of social justice can be nothing other than social utility.

Can a formula so vague be of any value to the economist or legislator in solving the practical problems with which he is called upon to deal? The answer seems clear. The fact that you see the target is, of course, no ground for assuming that you will be able to hit it, but certainly it is a *sine qua non* for that result. So of every problem involving a consideration of ends. There can, for instance, be no intelligent discussion with regard to the school curriculum until the question of educational values has first been faced. What holds for the educator is not less true for the social economist. Some of the most unnecessary and unfortunate conflicts of the century have been and still are being waged with regard to individual liberty, which might have been entirely avoided if the parties concerned had paused long enough to inquire seriously into the ends gained by the protection of liberty. In the same way false conceptions of justice have, to say the least, led to the waste of the time and energy of many able thinkers. If we could but agree that the justification of any scheme for the distribution of property, as for any determination of privileges—"rights"—is to be found solely in the relation of the same to the welfare of the society affected, then all forces might be united in a harmonious effort to solve the problem of ways and means. If the moralist can do nothing more than contribute to this result his presence in the arena of economic debate is certainly justified.

FRANK CHAPMAN SHARP.

THE UNIVERSITY OF WISCONSIN.